

NOT DESIGNATED FOR PUBLICATION
ARKANSAS SUPREME COURT

No. 06-917

MELVIN SMITH, JR.
Appellant

v.

MIKE HUCKABEE, GOVERNOR,
AND INSTITUTIONAL PAROLE
SERVICES
Appellees

Opinion Delivered April 12, 2007

PRO SE PETITION FOR
REHEARING [APPEAL FROM THE
CIRCUIT COURT OF JEFFERSON
COUNTY, CV 2006-353, HON.
ROBERT HOLDEN WYATT, JR.,
JUDGE]

PETITION DENIED.

PER CURIAM

Appellant Melvin Smith, Jr., is an inmate incarcerated in the Arkansas Department of Correction. Appellant filed a pro se petition for declaratory judgment or, alternatively, a writ of mandamus in Jefferson County Circuit Court that related to decisions by the parole board and governor pertaining to his incarceration and eligibility for parole. The circuit court denied the petition. Appellant brought an appeal of that order in this court, and we affirmed. *Smith v. Huckabee*, 06-917 (Ark. Mar. 8, 2007) (per curiam). Appellant now brings this pro se petition for rehearing of our decision.

Our rules provide that a petition for rehearing should be used to call attention to specific errors of law or fact which the opinion is thought to contain and not to repeat arguments already considered and rejected by this court. Ark. Sup. Ct. R. 2-3(g). The petition must cite to facts the appellant contends were overlooked and provide references to the abstract or addendum as

required by Ark. Sup. Ct. R. 2-3(h).

Appellant contends that we overlooked language in Act 93 of 1977, codified as Ark. Stat. Ann. § 43-2829 (Repl. 1977), and that executive clemency was established by the recommendation of the parole board to commute his sentence. This is the same argument that we addressed and rejected in our previous opinion. For the reasons there stated, the recommendation of the parole board did not act to grant clemency or commute appellant's sentence, nor could that recommendation serve to compel the governor to grant clemency. Act 93 did not establish parole eligibility for appellant because appellant's life sentence was not commuted to a term of years as clearly required by the language of the statute, despite his continued claim to the contrary.

Appellant has not pointed to any error of law or fact as required by Ark. Sup. Ct. R. 2-3 in support of his petition. He has stated no basis upon which to grant rehearing, and we accordingly

deny the petition.

Petition denied.